

1 Mr. Davis had this telephone conversation with the  
2 Mayor, did it occur to you that that would have been  
3 a violation of the Merit System rules and  
4 regulations?

5 A. Yes, sir.

6 Q. Did you tell Chief Hunter at the time that  
7 it was -- in your opinion, that was a violation?

8 A. I did not.

9 Q. Let's go to Exhibit 23. This is a memo  
10 from Chief Wallace Hunter to yourself, sir, as city  
11 manager dated April 20, 2006, a copy being sent also  
12 to Barbara Goodwin, the Personnel Director. I take  
13 it you received this memo from the Chief on or about  
14 that date?

15 A. I did.

16 Q. Now, did you do anything when you received  
17 this memo? Speak to anybody? Give any  
18 instructions?

19 A. I don't remember whether I asked them or  
20 told them that if, in the course of them conducting  
21 the investigation was my understanding of what it  
22 was about. But I think, there again, they were told  
23 to go through the the city attorney.

24 Q. Did you voice the view to Chief Hunter or  
25 Personnel Director Goodwin that in light of this

1 situation, you felt Mr. Davis should be fired?

2 A. No. I think my comment to the Personnel  
3 Director was that I felt like we had a violation and  
4 it needed to be checked.

5 Q. So you did voice your opinion that you  
6 thought the situation was a violation?

7 A. Yes. But to check it through the attorneys  
8 and to go with it.

9 Q. You'll notice Chief Hunter, in his memo to  
10 you, is expressing concerns or actually criticizing  
11 Mayor Hardin. You'll see that at the bottom of the  
12 first page of the memo where he says, quote, Mayor  
13 Hardin should refer any employee violating the chain  
14 of command, as indicated in our Merit System, back  
15 to their department head, Personnel Department, or  
16 city manager. Failing to do so is a violation of  
17 our City charter, end quote. See where it says  
18 that?

19 A. I do.

20 Q. Did you agree with that assessment by Chief  
21 Hunter concerning the activities and position of the  
22 Mayor?

23 A. I felt like the Mayor should instruct the  
24 firefighter or union president, if it concerned  
25 something to do with any business, to contact me

1 since I was the designated representative for the  
2 International Association of Firefighters to contact  
3 on City business, which would have -- to me would  
4 have violated the Merit System anyway if he was a  
5 firefighter calling. So yes, there was definitely a  
6 Merit System violation.

7 Q. Do you think the Mayor violated the Merit  
8 System rules and regulations?

9 A. No. I'm saying Mr. Davis did. The Mayor  
10 is not covered by the Merit System.

11 Q. No. But I'm addressing these points that  
12 Chief Hunter is talking about the Mayor. You know,  
13 I just quoted a couple sentences. My question to  
14 you is did you share and agree with the viewpoint of  
15 Chief Hunter that Mayor Hardin failed in his efforts  
16 to comply with the city charter?

17 A. Yes.

18 Q. And why do you say yes?

19 A. I feel that that gets into the day-to-day  
20 operations of the city and it should be left up to  
21 the city manager.

22 Q. Have you ever spoken to Mayor Hardin about  
23 this situation in your --

24 A. No, sir.

25 Q. -- your position?

1 A. No, sir.

2 Q. Are there any circumstances under which a  
3 firefighter working for the city can communicate  
4 with the Mayor of the city about issues that involve  
5 the city fire department?

6 A. Not to my knowledge.

7 Q. Would your answer be the same if I referred  
8 to city council members? Are there any  
9 circumstances or situations under which a  
10 firefighter can speak to a city council member about  
11 issues involving the city's fire department?

12 A. They can come to the council through proper  
13 procedures. And I think that that proper procedure  
14 goes through their chain of command. And if we  
15 cannot correct it, then we feel -- ultimately, if I  
16 feel that it needs to get to the council, then I  
17 will get it to them.

18 Q. You, as the city manager, will  
19 raise concerns?

20 A. Yes. The bottom line, even on a work  
21 session, of whatever comes before council for a work  
22 session we control, whether it be the civilians  
23 coming in or whomever. It's a very structured form  
24 of government.

25 Q. Is a firefighter permitted to -- after



1 exhausting the chain of command on an issue  
2 affecting the fire department, is that firefighter  
3 then allowed to address the city council or city  
4 council members on that issue?

5 A. Not by the Merit System, I don't think, no,  
6 sir.

7 Q. So if such a firefighter did that after  
8 exhausting the chain of command, that firefighter  
9 would be violating the Merit System rules and  
10 regulations?

11 A. I think he would be violating the intent of  
12 the Merit System rules and regulations, I do.

13 Q. Would he be violating the language of the  
14 Merit System rules and regulations?

15 A. I feel like they would be, yes.

16 Q. And would that same firefighter, after  
17 exhausting the chain of command, who addressed the  
18 city council as a group on an issue affecting the  
19 fire department, would that firefighter be subject  
20 to discipline up to and including termination?

21 A. He would be disciplined as to whatever the  
22 Merit System says. But I'm going to say this  
23 again: I don't feel like that it would ever get to  
24 that point. I've never seen it that way. Let me  
25 put it that way.

1 Q. Well, just so the record is clear, the  
2 firefighter pursues the chain of command on an issue  
3 affecting the fire department and addresses the city  
4 council on that same issue, then would he be subject  
5 to discipline, including firing?

6 A. He could be, yes.

7 Q. Exhibit 25, Mr. Roberts, is a End of  
8 Employment Form involving Mr. Davis and it indicates  
9 that his employment was terminated April 21, 2006,  
10 and he was dismissed. It has a place for you to  
11 sign, but on this copy there's no signature. Do you  
12 recall having signed that?

13 A. I did not sign it.

14 Q. Now, why would that have been?

15 A. He was -- it was an appeal process, and  
16 I've got to sign the ultimate letter that does the  
17 discharge.

18 Q. Had you, at this point in time, verbally  
19 told Chief Hunter that you approved of the  
20 termination?

21 A. I knew of the termination, but I -- I knew  
22 of the termination. However, I did not go into  
23 details with them. I received those details -- full  
24 details. You get bits and pieces at any time to any  
25 termination in the city. But I will receive all the

1 details at one time from both sides at the Personnel  
2 Review Board hearing.

3 Q. Did Chief Hunter, at any time prior to the  
4 termination of Mr. Davis, clear it through you or  
5 get your concurrence to go ahead and discharge him?

6 A. No, sir. These department heads can make a  
7 discharge on their own. As I stated earlier, I  
8 delegate that down to them.

9 Q. Sir, do you have a view on whether or not  
10 expanding the probationary period to 18 months for  
11 new hires would have an adverse impact on recruiting  
12 qualified individuals as firefighters?

13 A. No, sir, I do not.

14 Q. Do you know if firefighters, while they are  
15 on probation, are prohibited from having secondary  
16 jobs?

17 A. It's the same as any of our others that's  
18 on probation in the public sector. Number one, we  
19 want their total, one hundred percent divided  
20 attention in the training process. And you go  
21 through the basic concept basic training for the  
22 chosen Public Safety field they're in.

23 Q. Now, coming to the end here, it's your  
24 understanding that Mr. Davis did, in fact, appeal  
25 his dismissal to the Personnel Board, correct?

1 A. He did.

2 Q. Did you attend that hearing?

3 A. I attended the hearing.

4 Q. Did you participate in that hearing?

5 A. I was called to testify.

6 Q. So you were a witness?

7 A. At the very end of the hearing, yes, sir.

8 Q. What was the substance of your testimony?

9 A. Who the direct contact point for the  
10 International Association of Firefighters was with  
11 the city.

12 Q. I'm sorry. How did that relate to a  
13 telephone conver-- let me finish, please, if I may.  
14 How would that comment you just made relate to the  
15 telephone conversation that Mr. Davis had with the  
16 Mayor about the probationary period?

17 A. Well, as union president or as he's  
18 indicated, then that comment should have been  
19 through me.

20 Q. So, once again, your view is that he was  
21 calling the Mayor in his capacity as the local  
22 president and should have gone through you?

23 A. From the indications that I have, yes.  
24 From everything that y'all have shown me today and  
25 in the Personnel Review Board hearing.



1 Q. When you were called as witness at the  
2 Personnel Review Board hearing, were you called by  
3 the City's attorney or representative?

4 A. I was called by the City's attorney.

5 Q. Were you aware you were going to be called  
6 as a witness?

7 A. Not until right before he called me.

8 Q. And that was Mr. Graham?

9 A. That's correct.

10 Q. And at that time when you were called as a  
11 witness before the Personnel Board, were you  
12 supportive of the discharge of Davis?

13 A. From the testimony that I had heard, I felt  
14 that he had a violation of the Merit System.

15 Q. And then you're the ultimate decisionmaker  
16 on behalf of the city, and I think you indicated  
17 earlier that the Personnel Board made a  
18 recommendation to you to uphold the discharge of  
19 Davis?

20 A. Yes, sir. That's correct.

21 Q. Did you at all, at any time, think you  
22 might have a conflict of interest if you were called  
23 as a witness by the city attorney at the Personnel  
24 Board hearing and then you were going to make the  
25 ultimate decision as to what might be recommended by

1 the Personnel Board?

2 A. Not as it related to the ultimate question  
3 of what the contact point was with the union.

4 Q. So it's okay --

5 A. So I do not. I do not because I did not --  
6 I don't think it was a conflict of interest, no.

7 Q. Has anyone ever told you it might have been  
8 a conflict of interest to be a witness, in effect,  
9 against an employee that's been discharged and then  
10 be the ultimate decisionmaker later on?

11 A. No, sir.

12 Q. Were you ever contacted by a member of the  
13 press or the media to give a quote or comment after  
14 Mr. Davis was discharged?

15 A. I have.

16 Q. And did you respond to that?

17 A. I did not.

18 Q. What did you say? No comment or just --

19 A. No comment.

20 Q. And why did you say that?

21 A. That's the normal response I have for  
22 anything that deals with personnel issues. That's  
23 something that, to me, is private between the  
24 individual and his employer, and it's up to them if  
25 they want to put it out.

1 Q. Were you aware that Mr. Davis explored  
2 getting other employment after he was fired by the  
3 city?

4 A. I knew that he worked for the ambulance  
5 service, yes, sir.

6 Q. Do you know the name of the ambulance  
7 service?

8 A. Yes, I do. He worked for us. I mean, you  
9 know -- Care?

10 Q. Okay. But were you ever contacted by any  
11 possible or prospective employers inquiring about  
12 Mr. Davis?

13 A. No, sir, I have not been.

14 Q. And that would include verbally, by  
15 telephone, e-mail, correspondence? You were just  
16 never contacted?

17 A. I've never been contacted about employment  
18 for Mr. Davis.

19 Q. Does the city have a policy on that, about  
20 making any comment about employees who have  
21 previously worked for the city?

22 A. We do. Usually, it's a no comment, but  
23 it's -- you would have to ask the Personnel Director  
24 the exact quote.

25 MR. WOODLEY: Okay. I think that's all the

1 questions I have. Thank you, Mr. Roberts, for  
2 coming here.

3 (The deposition concluded at 1:35 p.m.)

4 \* \* \* \* \*



REPORTER'S CERTIFICATE

STATE OF ALABAMA

MONTGOMERY COUNTY

I, Shannon Williams, Certified Shorthand Reporter and Commissioner for the State of Alabama at Large, hereby certify that on April 4, 2007, I reported the deposition of H.H. ROBERTS, who was first duly sworn or affirmed to speak the truth in the matter of the foregoing cause, and that pages 1 through 92 contain a true and accurate transcription of the examination of said witness by counsel for the parties set out herein.

I further certify that I am neither of kin nor of counsel to any of the parties to said cause, nor in any manner interested in the results thereof.

This 10th day of April, 2007.



SHANNON M. WILLIAMS, CSR  
Commissioner for the  
State of Alabama at Large

MY COMMISSION EXPIRES: 1/14/2010